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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|--|-------------|----------------------|---------------------|------------------|
| 10/654,303 | 09/02/2003 | Watson Wan | Sympel03-01-1 | 4413 |
| 7590 12/13/2005 | | | | |
| Gerald L. Robertson Sympel Communications Suite 204 300 Brannan Street San Francisco, CA 94107 | | | EXAMINER | |
| | | | TRAN, TUAN A | |
| | | | ART UNIT | PAPER NUMBER |
| | | | 2682 | |

DATE MAILED: 12/13/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

| | | | |
|------------------------------|--------------------------------------|-----------------------------------|--|
| Office Action Summary | Application No. 10/654,303 | Applicant(s) WAN ET AL. | |
| | Examiner Tuan A. Tran | Art Unit 2682 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 15 September 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

1. Claim 1 is rejected under 35 U.S.C. 103(a) as being unpatentable over Zendle et al. (6,628,627) in view of Pedersen (2003/0125089).

Regarding claim 1, Zendle discloses a point-of-presence 414(or customer premise) (See figs. 4-5) comprising: a wireless transceiver 505; a router 507 in communication with the wireless transceiver 505; an inherently a primary power supply; a network having at least one backbone router, the network being in a location away from the point-of-presence 414; communication link between the router 507 and the network, providing communication between the backbone router and the point-of-presence router 507; at least an antenna 418 in communication with the wireless transceiver 505, the antenna 418 providing the basic link to the network for a subscriber having IP address access to the network and means for transceiving data thereto (See figs. 3-5 and col. 6 line 47 to col. 7 line 9, col. 7 lines 39-48, col. 9 line 18 to col. 11 line 8). However, Zendle does not mention the point-of present comprises primary and secondary wireless radio controlled by an Ethernet switch and an uninterruptible power supply (UPS) connected to the primary power supply for providing power to the radios, the

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Ethernet switch and the router. Since both the wireless transceiver as disclosed by Zendle and the wireless radios controlled by the Ethernet switch asserted by the instant application perform the same task that is to provide multi-channel service to the user (See col. 6 line 63 to col. 7 line 6, col. 9 lines 18-25 and Specification page 6 lines 17-21) and the technique of using plurality of wireless radios controlled by a switch to provide multi-channel service within a customer premise is well known in art as shown by Pedersen (See fig. 2 and page 3 [0035-0036]); therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to use the plurality of wireless radios as suggested by Pedersen for the advantage of avoiding service interruption while performing necessary maintenance and/or repair to the wireless radios of system. Further, since uninterruptible power supply (UPS) such as battery, is common in the art; therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to add an UPS to Zendle's system in order to keep the system being operable during a power outage.

Response to Arguments

Applicant's arguments filed 09/15/2005 have been fully considered but they are not persuasive.

The Applicant argued that Zendle (6,628,627) cannot be considered prior art because it is issued 28 days after the instant application was filed (See Remark). The Examiner respectfully disagrees with the Applicant argument. Zendle reference has no common inventor and/or assignee with the instant application and has been filed before

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the instant application was file; therefore, it is considered a valid prior art in a 35 U.S.C. 103(a) rejection.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tuan A. Tran whose telephone number is (571) 272-7858. The examiner can normally be reached on Mon-Fri, 10:00AM-6:30PM.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor Doris To can be reached on (571) 272-7629. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

25425

Tuan Tran


LEE NGUYEN
PRIMARY EXAMINER